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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/559,796

04/16/2007

Volker Scheuch

3827.145

7489

41288

7590

08/25/2009

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EXAMINER

ILAN, RUTH

ART UNIT

PAPER NUMBER

3616

MAIL DATE

DELIVERY MODE

08/25/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/559,796	<b>Applicant(s)</b> SCHEUCH ET AL.	
	<b>Examiner</b> Ruth Ilan	<b>Art Unit</b> 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18-37 is/are pending in the application.
- 4a) Of the above claim(s) 20,23,24,27-31,33 and 34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18,19,21,22,25,26,32 and 35-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/24/2006</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Species III- Figure 4 in the reply filed on 8/10/2009 is acknowledged. The Applicant agreed with the Examiner's assertion that claims 18-22,25,26,33 and 35-37 read on the elected embodiment. Upon further consideration, claim 32 appears to read on the elected embodiment, however claim 20 and 33 do not. With respect to claim 20, the two retaining member parts that are movable apart from each other as lift means does not describe the elected embodiment, because the lift means in Figure 4 is the folded bellows. Two retaining parts constituting the lift means are included in the embodiments shown in Figures 1 and 2, and Figures 7a-7c. With respect to claim 33, this claim requires a lift limiter (34) which is a separate element from the lift means previously claimed. This lift limiter is shown in Figures 1 and 2, and not Figure 4. In summary, claims 18, 19, 21, 22, 25, 26, 32 and 35 read on the elected embodiment. Claims 20, 23, 24, 27, 28-31, 33 and 34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 18, 22, 25, 26, 32, 36, and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Fredriksson et al. (GB 2 373 218 A) Fredriksson teaches a device for lifting a front hood of a motor vehicle in case of collision with a pedestrian including a retaining member (unnumbered catch described on page 6, lines 14-18.) Also taught is a pyrotechnic explosive unit (14) for releasing the retaining member (as described, the inflation of 8 by the gas produced pushes 19 up which releases the catch.) The energy released by the explosive unit also actuates the lift means (8.) Regarding claim 22, the sleeve 8 can fairly be called a transmission element, since the impulse released by the gas of the explosive unit drives this transmission to fill and lift the hood. Regarding claims 23 and 24, the lift means is a lift device that is a folded bellows (8.) Regarding claim 32, the explosive unit produces propulsive gas (see page 6, last paragraph.) Regarding claims 36 and 37, these limitations are previously described above, and the method is inherent and disclosed throughout.

4. Claims 18, 19, 22, 25, 26, 32, 35-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Knight -Newbury et al. (WO 02/072393) Knight- Newbury et al. teaches a device for lifting a front hood of a motor vehicle in case of collision with a pedestrian including a retaining member (catch 34, and bracket 9, see Figure 1) Also taught is a pyrotechnic explosive unit (19) for releasing the retaining member (as described, the inflation of the sleeve 21 by the charge actuates the release arm 33 to release the catch, see page 8, second paragraph) The energy released by the explosive unit also actuates the lift means (sleeve 20 inflates and pushes the hood up) Regarding

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claim 19, the retaining member 9 is a connecting element for rigid connection of the hood with the vehicle body (via arm 34, which is rigid until released by the catch.)

Regarding claim 22, the sleeve 20 can fairly be called a transmission element, since the impulse released by the gas of the explosive unit drives this transmission to fill and lift the hood. Regarding claims 23 and 24, the lift means is a lift device that is a bellows.

Regarding claim 32, the explosive unit produces propulsive gas. Regarding claim 35, at least one guide element (unnumbered threaded connection at top of 34 in Figure 1) is provided in a guide opening. Regarding claims 36 and 37, these limitations are previously described above, and the method is inherent and disclosed throughout.

5. Claims 18, 19, 21, 22, 32, 35-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Sasaki (DE 100 33 126 A1.) Sasaki teaches a device for lifting a front hood of a motor vehicle in case of collision with a pedestrian including a retaining member (hollow bracket 25 and element 33 see Figure 2) Also taught is a pyrotechnic explosive unit (30) for releasing the retaining member (as seen in Figure 5B, the element 33 breaks along weakness line, when piston is moved up) The energy released by the explosive unit also actuates the lift means (28) Regarding claim 19, the retaining member 25 is a connecting element for rigid connection of the hood with the vehicle body. Regarding claim 21, the explosive unit is in a hollow space in the retaining member. Regarding claim 22, the piston can fairly be called a transmission element, since the impulse released by the gas of the explosive unit drives this transmission up to lift the hood.. Regarding claim 32, the explosive unit produces propulsive gas.

Regarding claim 35, at least one guide element (unnumbered pin connections at top of

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bracket 25 is provided in a guide opening (unnumbered openings) Regarding claims 36 and 37, these limitations are previously described above, and the method is inherent and disclosed throughout.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references cited on the attached PTO 892 teach hood hinge release mechanisms of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth Ilan whose telephone number is 571-272-6673. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-7742. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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